IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 3725 of 2005
To
FIRST APPEAL No. 3727 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PROJECT MANAGER, OIL & NATURAL GAS CORP.LTD - Appellant(s)
Versus
PRAJAPATI KALIDAS JOITARAM & 1 - Defendant(s)

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Appearance :
MR RR MARSHALL for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1,
MR UDAY BHATT A.G.P. for Defendant(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 09/11/2006

ORAL COMMON JUDGMENT

1. These group of three appeals arises from the common judgment delivered in Land Acquisition Reference

Nos. 2053/1991 to 2055/1991 and they are heard together and they are now being disposed of by this common judgment. The judgment is delivered by the learned Assistant Judge, Mehsana on 31st August, 1995. The learned Judge has partly allowed the Reference Cases and has ordered that the original applicant to recover sum of Rs.10,050=00, 10912=00 and 20,344=00 respectively from the appellant as additional amount of compensation for crops, trees and running interest at the rate of 9% per annum from 31st December, 1987 till realization together with proportionate costs. The learned Judge further ordered that the respondent was entitled to get the additional amount of yearly rent at the rate of Rs.110=00 per Are i.e., Rs.1.10., paise per sq. mtr., over and above the rent fixed by ONGC i.e., the appellant from time to time with interest at the rate of 9% per annum from the due date of rent till realization. The appellant has approached this Court only to challenge part of the operating portion namely the direction with regard to payment of Rs.110=00 per Are i.e. Rs.1.10 paise per sq. mtr., over and above the rent fixed by the appellant from time to time.

2. The necessary facts for the purpose of this judgment can be stated as under:-

2.1. The lands are situated at village Telavi, Taluka Viramgam. They were agricultural lands. They were temporarily acquired by the appellant for drilling oil wax. The possession of the land was taken on 31st December, 1987. The respondents were issued notice regarding fixation of the standard rent and ultimately, the Special Land Acquisition Officer fixed it at Rs.50/- per Are per year. However, the respondents on the ground of inadequacy of the amount, preferred the aforesaid Reference Cases before the concerned Court. According to them, the yearly rent ought to have been fixed at Rs.300=00 per Are. The learned Judge after considering the material produced before it, came to the conclusion that the rent fixed by the Special Land Acquisition Officer was inadequate and the respondents were entitled to get additional compensation at the rate of Rs.110/- per Are, meaning thereby, in the opinion of the learned Judge, Rs.160=00 per Are per year was the standard rent of the land in question. To this the appellant has no dispute or any grievance to make. According to the appellant the only direction that hurts it is that this additional sum is required to be paid by it to the claimant over and above the rent that may be fixed by the ONGC i.e, the appellant from time to time together with

interest from due date till realization at the rate of 9%.

3. I have perused the record of this appeal especially the judgment of the Trial Court. I have also heard Mr. R.R. Marshall learned advocate for the appellant. The respondents though served have not appeared. At the outset it is stated by Mr. Marshall that several matters of this very group have already been decided by the co-ordinate Bench {Coram K.S.Jhaveri, J.]. He has further submitted that the decision is in favour of the ONGC. He has further submitted that the learned Judge could not have legally passed such direction. He, therefore, submitted that this Court may adopt the same reasoning and allow these appeals.

4. Having given thoughtful consideration to the submissions of Mr. Marshall, it clearly appears that the Tribunal has slightly overstepped its jurisdiction. The direction clearly reveals that the learned Judge has proceeded on the presumption that whenever ONGC would revise the rate of rent, it will be less to the extent of Rs.1.10 per sq. mtr. To draw such presumption by the Reference Court is not permissible. The respondents have, in case of feeling aggrieved by the revision of the rent,

other remedies available to them. No such direction can be given covering of the future eventualities. In that view of the matter, it appears that such direction cannot stand any more and it is required to be quashed and it is ordered to be quashed and set aside.

5. The result is these appeals are allowed with no order as to costs.

R & P, if any, to be re-transmitted to the Reference Court forthwith.

[Akshay H. Mehta, J.]

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